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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/807,423	03/24/2004	Ted Guidotti	018798-223	3507
21839	7590	03/29/2006		
BUCHANAN INGERSOLL PC (INCLUDING BURNS, DOANE, SWECKER & MATHIS) POST OFFICE BOX 1404 ALEXANDRIA, VA 22313-1404			EXAMINER CRAIG, PAULA L	
			ART UNIT	PAPER NUMBER
			3761	

DATE MAILED: 03/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/807,423

Applicant(s)

GUIDOTTI ET AL.

Examiner

Paula L. Craig

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 19 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Amendment***

1. The objections to the drawings on the grounds of reference signs are withdrawn. The objections to the drawings based on the informalities noted in the Form PTO-948 is maintained for the reasons of record. The rejections of Claims 1-12 under 35 U.S.C. 112, and 103 over McFall/Korpman or McFall/Korpman/Pieniak, are withdrawn. However, in light of the amendment filed January 19, 2006, new grounds of rejection are indicated below.

### ***Claim Rejections - 35 USC § 103***

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in the prior Office action mailed November 1, 2005.
3. Claims 1-9 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,941,863 to Guidotti et al., previously of record, in view of Korpman.
4. For Claim 1, Guidotti teaches an absorbent article including a liquid-permeable upper surface (Figs. 1-5 and col. 1, lines 4-5). The article has an absorbent structure having a planar extension (absorbent body 3, Figs. 1-5 and col. 6, lines 23-37). The absorbent structure has an acquisition layer and at least one storage layer (fluid-receiving layer 18, second absorption layer 19, and third absorption layer 23), Figs. 1-5 and col. 7, line 35 to col. 9, line 8). The acquisition layer has a plurality of fragments of

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a liquid-absorbing, open-celled foam material (cylindrical bodies 20 or strips 125, Figs. 1-5 and col. 8, lines 22-60, and col. 11, lines 32-38). Each fragment has a planar extension having a transversal direction and a longitudinal direction, and a thickness direction extending perpendicularly to the planar extension of the fragment (Figs. 1-5). Guidotti teaches approximately 4-7 fragments in a lateral cross-section of the diaper, with spaces between them taking up about 1-2 times as much of the lateral width of the absorbent structure of the diaper as the fragments themselves. Since the typical width of the absorbent core of a diaper is about 8 cm, having a width in the transversal direction of each fragment in a dry condition which does not exceed 10 millimeters (1 cm) is therefore considered to be inherent in Guidotti. Guidotti teaches the total area of the fragments in dry condition in the planar extension being lower than the area of the absorbent structure in the planar extension (Figs. 1-5). Guidotti shows at least most of the fragments being arranged such that they are not touching adjacent fragments (Figs. 1-5 and col. 8, lines 31-34 and col. 10, lines 37-48). Guidotti does not teach the foam of the fragments being polyacrylate-based. However, absorbent polyacrylate-based foam is well known in the art. Korpman confirms this and teaches a polyacrylate-based foam, as described in the prior Office Action mailed November 1, 2005. Korpman teaches that polyacrylate foams are advantageous in that they are easily prepared and have an extremely high capacity for absorbing aqueous fluids (col. 1, lines 34-48). It would have been obvious to one of ordinary skill in the art at the time of the invention by the Applicant to modify the absorbent article of Guidotti to include a polyacrylate-based foam as taught by Korpman, to provide for high absorbing capacity.

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5. For Claim 2, having each fragment in a dry condition having a length in the transversal direction which does not exceed 7 millimeters is considered to be inherent in Guidotti, for the same reasons as described above for Claim 1 in paragraph 4.

6. For Claim 3, Guidotti teaches about 6-7 fragments in a longitudinal cross-section of the diaper, with spaces between the fragments taking up about 2-3 times as much of the length of the absorbent structure of the diaper as the fragments themselves (Fig. 1). Since the typical length of the absorbent core of a diaper is about 26 cm, having each fragment in a dry condition having a length in the longitudinal direction which does not exceed 20 millimeters (2 cm), is considered to be inherent in Guidotti.

7. For Claims 4 and 5, Guidotti teaches the total area of the fragments in the planar extension of the fragment maximally being 50% or 30% of the total area of the absorbent structure in the planar extension (Figs. 1-5).

8. For Claim 6, Guidotti teaches the fragments in a dry condition having a density of at least  $0.18 \text{ g/cm}^3$  (col. 8, lines 38-47).

9. For Claims 7-8, Guidotti teaches each fragment being adapted such that upon wetting its volume increases by at least 100% (col. 9, lines 1-4 and col. 10, lines 37-51). Guidotti/Korpman do not expressly teach the volume increasing by at least 500% or 300%. Applicant's specification indicates that polyacrylate-based foam is a suitable material for the fragments (specification, paragraph 34). Polyacrylate-based foam is well known in the art, as shown by Korpman and as described above in paragraph 4 for Claim 1. Absent evidence to the contrary, the foam disclosed by Korpman is presumed to have the claimed volume increase, since the materials are substantially identical. It

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would have been obvious to one of ordinary skill in the art to modify Guidotti to include the foam being polyacrylate foam, as taught by Korpman, for the reasons described above in paragraph 4 for Claim 1, and therefore for the foam to have the claimed volume increase. See *In re Boesch and Slaney*, 205 USPQ 215 (CCPA 1980), and *In re Spada* 15 USPQ2d 1655 (CAFC 1990).

10. For Claim 9, Guidotti teaches the fragments being applied against the upper surface of the storage layer in a wetting area (Figs. 1-5).

11. For Claim 12, Guidotti teaches the absorbent article being a diaper (Figs. 1-5 and col. 6, lines 23-26).

12. Claims 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Guidotti in view of Korpman, as described above, and further in view of Pieniak.

13. For Claim 10, Guidotti/Korpman teach all the limitations of Claim 1, as described above in paragraph 4. Guidotti teaches at least one of the storage layers including cellulosic fibers and particulate superabsorbent, wherein an amount of superabsorbent material calculated on the total weight of the storage layer in dry condition is at least 10% by weight (col. 8, lines 48-53). Guidotti does not expressly teach the amount of superabsorbent being at least 50% or 70% by weight. Pieniak teaches an absorbent article having an amount of superabsorbent material in a storage layer being at least 50% or 70% by weight, as described in the prior Office Action. It would have been obvious to one of ordinary skill in the art to modify Guidotti to include an amount of

superabsorbent material in the storage layer being at least 50% or 70% by weight, for the same reasons as described in the prior Office Action.

### ***Conclusion***

14. Applicant's amendment necessitated the new grounds of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paula L. Craig whose telephone number is (571)272-5964. The examiner can normally be reached on 8:30AM-5:00PM M-F.

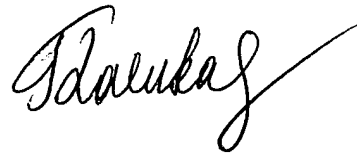
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571)272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Paula L Craig  
Examiner  
Art Unit 3761

PLC



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